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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/542,177	11/15/2006	Owen James May	55503/DBPS307	8303
23363 7590 11/12/2008 CHRISTIE, PARKER & HALE, LLP PO BOX 7068 PASADENA, CA 91109-7068				
EXAMINER CHAPMAN, GINGER T				
ART UNIT		PAPER NUMBER		
3761				
MAIL DATE		DELIVERY MODE		
11/12/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/542,177

Applicant(s)

MAY ET AL.

Examiner

Ginger T. Chapman

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SF 298)
Paper No(s)/Mail Date 11/15/2006
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

DETAILED ACTION

Status of the claims

1. Claims 1-6 are pending in the application.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Galindo (US 3,039,464) in view of Mills (GB 2 347 863 A).
5. With respect to claims 1 and 6, as best depicted in all Figures, Galindo discloses an ostomy bag 10 and method of securing an ostomy bag (c. 2, ll. 63-69) as recited in claim 6, comprising a flange 16 having a seal 22 (c. 2, ll. 40-41) to mount the bag on a wearer and sealing means 132 (figs. 7 and 10), for adhering and sealing the bag (C. 3, LL. 34-39), via the flange 16,

to the wearer 18, the ostomy bag 10 further comprising an additional support 124 (fig. 7; 24 in fig. 3, 26/28 in fig. 5), for the ostomy bag comprising a layer of adhesive 126 (26: fig. 5) shaped to fit around and radially extend a selected portion of the flange 16 and the bag 10 (figs. 3 and 7).

6. Galindo discloses the claimed bag except for a layer of hydrocolloid. Galindo teaches a layer of adhesive 26. As best depicted in Figure 1, Mills teaches a support 1 for an ostomy bag comprising a layer of hydrocolloid 3. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the layer of Galindo comprising hydrocolloid as taught by Mills since Mills states, at p. 4, penultimate paragraph, line 1 and at p. 9, ll. 1-2, that hydrocolloid is a preferred adhesive material that efficiently adheres the support to the skin of a patient.

7. With respect to claim 2, Galindo discloses the claimed invention except for the layer of hydrocolloid is self-adhesive on one side. Galindo teaches the layer of adhesive 26, 126 (figs. 5 and 7) is self-adhesive on one side thereby providing motivation for such. Mills, at p. 9, ll. 1-2, teaches the layer of hydrocolloid is self-adhesive on one side. In view of the teachings of the prior art, it would have been obvious to one having ordinary skill in the art to provide either a self-adhesive layer as taught by Galindo or a layer of hydrocolloid that is self-adhesive on one side since Mills states, at p. 9, ll. 1-2, that this serves to efficiently adhere the support to the wearer's skin.

8. With respect to claim 3, Galindo discloses the claimed invention except for the hydrocolloid layer is covered by release paper. Galindo teaches the adhesive layer 26, 126 covered with release paper 28, 128 thus providing motivation for such. As best depicted in Figure 1, Mills discloses the hydrocolloid layer 3 is covered by release paper 15 arranged to be

removed prior to use (Mills at p. 8, paragraph 5; Galindo at c. 2, ll. 46-47). In view of the teachings of the prior art, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide either the adhesive layer of Galindo or the hydrocolloid layer of Mills with a cover of release paper since release paper is well-known in the art to protect adhesive layers prior to use (Galindo at c. 2, l. 47) and since Mills states, at p. 7, 3d paragraph, that the benefit of providing release paper is that it protects the adhesive surface of the hydrocolloid.

9. With respect to claim 4, Galindo discloses the claimed invention except for the hydrocolloid layer is semicircular. Galindo, as best depicted in Figures 5, 3, and 7, discloses the adhesive layer is semi-circular thus providing motivation for such. With respect to the hydrocolloid layer, Mills teaches, at p. 4, penultimate paragraph and at p. 6, 2d paragraph, that the adhesive layer can comprise a hydrocolloid adhesive because hydrocolloid adhesive efficiently adheres the ostomy support to the skin of a patient and does not cause undue skin irritation. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the semicircular layer of Galindo as a hydrocolloid layer since both layers perform the substantially identical function of adhering the ostomy support to the skin and for the benefits taught by Mills.

10. With respect to claim 5, as best depicted in Figures 3 and 7, Galindo discloses the support 124 forms a collar extending around the complete circumference of the flange 16, 22; 116, 122.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ginger T. Chapman whose telephone number is (571)272-4934. The examiner can normally be reached on Monday through Friday 9:30 a.m. to 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ginger T Chapman/
Examiner, Art Unit 3761
10/16/08

/Tatyana Zalukaeva/
Supervisory Patent Examiner, Art Unit 3761